

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>IN RE: DOMESTIC DRYWALL ANTITRUST LITIGATION</b>	
<b>THIS DOCUMENT RELATES TO:</b>	<b>CIVIL ACTION</b>
<b>Ashton Woods Holdings LLC, et al., Plaintiffs,</b>	<b>MDL No. 13-2437</b>
<b>v.</b>	<b>15-cv-1712</b>
<b>USG Corp., et al., Defendants.</b>	

**ORDER**

**AND NOW**, this 24th day of February 2020, upon consideration of the supplemental briefing submitted by the parties on the pending Daubert motions, it is hereby **ORDERED** that:

1. Regarding Homebuilder Plaintiffs' Motion to Preclude the Testimony of David A. Hall, Homebuilder Plaintiffs and Defendants may each file a supplemental brief limited to the legal availability of the pass-through defense by Wednesday March 4, 2020, not to exceed ten (10) pages, double-spaced.
2. Regarding Defendants' Motion to Preclude Certain Testimony of Dr. Daniel E. Ingberman, the parties shall file supplemental memoranda by Wednesday March 4, 2020, not to exceed five (5) pages, double-spaced, addressing the following:
  - a. Explain, in plain English, how Dr. Ingberman estimated the numbers in Exhibit 9C to his Amount of Damages Report. Support this explanation with quotes from, and citation to, Dr. Ingberman's report or deposition.
  - b. Defendants' Motion to Preclude Dr. Ingberman references the "direct purchasing distributors" market. Where in the record is this market defined?

- c. If Homebuilder Plaintiffs are able to establish Defendants' liability at trial, but are unable to prove their umbrella damages theory, will Homebuilder Plaintiffs have a viable theory of damages supported by existing record evidence, other than Dr. Ingberman's theory based on market share?
  - d. Does the record in this case, including the depositions of third-party industry experts such as Thompson Research Group, touch upon market share? If so, did Dr. Ingberman consider this record evidence in his report? If Dr. Ingberman did not, why not?
  - e. Assuming that Homebuilder Plaintiffs testify at trial about their purchases of drywall, including the sources and prices of their purchases, can Homebuilder Plaintiffs use experience to estimate the amount of their drywall purchases that are attributable to each Defendant?
3. Defendants shall include the full transcript of Dr. Ingberman's deposition in their submission.

**BY THE COURT:**

**s/ Michael M. Baylson**

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**MICHAEL M. BAYLSON**  
**United States District Court Judge**